

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DANA GUILLORY	§	PLAINTIFF
	§	
v.	§	Civil Action No. 1:02CV912GuRo
	§	
NEW ORLEANS VEDIC SOCIETY, INC.,	§	DEFENDANT

ORDER OF DISMISSAL

This matter comes before the Court *sua sponte*, pursuant to Rule 41 of the Federal Rules of Civil Procedure. On October 5, 2004, the Clerk of Court entered Defendant's default pursuant to Fed. R. Civ. P. 55(a). The last activity that occurred in the above captioned cause was termination of Plaintiff's attorney on July 5, 2005. No motion for Default Judgment has ever been filed.

Rule 41(b) provides that a case may be dismissed because of failure to prosecute or to comply with an order of the court. Not only may a district court dismiss for lack of prosecution upon the motion of the defendant, but it may also dismiss an action upon its own motion whenever necessary to "achieve the orderly and expeditious disposition of cases." *Link v. Wabash RR Co.*, 370 U.S. 626 (1962); *Anthony v. Marion County Gen. Hosp.*, 617 F.2d 1164 (5th Cir. 1980). A dismissal for failure to prosecute is an inherent power of a court to be exercised in the discretion of the district court. *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995). On appeal, a decision to dismiss under Rule 41(b) is limited to reversal for abuse of discretion. *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639 (1976); *Gonzalez v. Firestone Tire & Rubber Co.*, 610 F.2d 241 (5th Cir. 1980).

The Court has reviewed the record in the above captioned cause and finds that Plaintiff

has failed to prosecute this case. Therefore, the Court concludes that the case against this defendant should be dismissed without prejudice under Rule 41(b).

IT IS, THEREFORE, ORDERED AND ADJUDGED that Plaintiff's complaint is hereby dismissed, without prejudice, for failure to prosecute.

SO ORDERED AND ADJUDGED this the 6th day of March, 2006.

s/ Louis Guirola, Jr.

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE